

Towards a Theory of Change:

Human Rights and Development in the New Millennium

COST ACTION IS 0702: The Role of the EU in UN Human Rights Reform

Working Group II on Human Rights and Development Tools

AHRI members of COST Action IS 0702 on the role of the EU in UN Human Rights reform have established since 2009 a specific Working Group II of researchers focused on the sub-topic of human rights and development tools, including a particular focus on EU and UN institutions.

The major output of this work is an edited volume: *Towards a Theory of Change: Human Rights and Development in the New Millennium* (Routledge, 2013).

In addition to this, the team has prepared a series of policy briefs to help translate the research findings into concrete recommendations for European, UN and other development policy makers.

The added-value of this research is that it employs a *theory of change framework* in the analysis of how human rights inform development work at local, national and international levels. The contributions ask how the expansion of human rights into development work affects *organisational and operational change* and investigates the role of different actors in bringing about change.

The Working Group believes this research can inform key EU and UN policy instruments such as the Agenda for Change and the UN Development Group's Human Rights Mainstreaming Mechanism.



Human rights approaches to development within the EU: Assumptions of change

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This policy brief focuses on the European Union (EU), that is the Union as such, as well as the member states, as the largest donor of aid. The EU and its member states provide more than half of all development assistance, around 55 per cent. Initially, our research idea was to examine how the EU contributes, or may contribute, to the operationalisation of UN human rights approaches to development on the ground. Very early on, it became clear that given the recent major reforms of and within the EU, the EU is and will continue to be mostly inward looking in the years to come. We will therefore mainly focus on the EU's approach to human rights approaches to development, and later suggest some opportunities for inter-organisational learning between the EU and the UN. First, we will briefly look into changing realities outside and inside the EU, as they seem to be the real triggers for change.

Changing realities on the ground

Global developments: 'the world has changed' (EC & HRFASP 2011a: 2)

A major driver for change in the EU is the changing world order with emerging new powers like the BRICS (Brasil, Russia, India, China and South Africa). For example, in the MEMO accompanying the financial proposals on External Action Instruments, it was argued:

At a time when the world order is changing rapidly and emerging economies like China, India and Brazil are asserting their influence, Europe must stand together and be an active partner in shaping global change. [...] An increased external relations budget will help make Europe count in a world of shifting alliances and emerging new powers.

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AHRI (Association of Human Rights Institutes) consists of 41 member institutions based in Europe that carry out research and education in the field of human rights. (<http://www.ahri-network.org>)

http://www.cost.eu/domains_actions/isch/Actions/IS0702

Human rights approaches to development within the EU: Assumptions of change

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Similar references to the changing global context, including the financial and economic crisis, can be found in the Global Europe Communication (EC & HRFASP 2011a: 2).

Changing institutional set-up: EEAS: 'the EU has changed' (EC & HRFASP 2011a: 2)

Following the entry into force of the Lisbon Treaty, a new administration - the European External Action Service (EEAS) - was set up in the course of 2010-2011 (art. 27.3 Treaty on European Union; Council Decision 20 July 2010) in order to service the High Representative for Foreign Affairs and Security Policy (HRFASP), Lady Ashton. The High Representative – who also holds the position of Vice President of the European Commission – is to ensure consistency in the EU external action. In many ways, the EEAS has been presented as a key driver of change: 'It will help strengthen the European Union on the global stage, give it more profile, and enable it to project its interests and values more efficiently.' (HRFASP 2010: 2).

Development cooperation remains the domain of the Commissioner for Development, although submission for decision to the Commission has to happen jointly with the HRFASP.

As to financial management, geographic financial instruments such as the Development Cooperation Instrument, the European Neighbourhood Policy, the Instrument for Pre-Accession Assistance and the European Development Fund, as well as thematic instruments including the European Instrument for Democracy and Human Rights remain under the responsibility of the Commission. The EEAS has a role to play, however, in the programming. Preparation of the strategic multi-annual steps within the programming cycle has been assigned to the EEAS: it has responsibility for the country and regional strategic papers and the national and regional indicative programmes. The preparation of documents pertaining to development takes place under the responsibility of the Commissioner for Development Policy (art; 9 Council Decision 2010).

On the ground, Commission delegations have been renamed European Union Delegations and the Head of Delegation has a mandate and responsibility to coordinate efforts across the EU Member States present in that country. They are said to be 'a key platform for the international projection of common European interests' (HRFASP 2010: 4).

These two strands of developments, globally and inside the EU, have impacted on the EU's approach to development (cooperation), and to human rights in external action, as discussed in the next section. As such, these developments also have implications for human rights approaches to development, but which implications exactly remains unclear.

EU, development, and human rights approaches to development: some tendencies

The European Commission has recently adopted a new communication on the future EU development cooperation policy, which is explicitly labelled an agenda for change to increase the impact of EU development policy (European Commission 2011a). The Communication was preceded by a green paper (European Commission 2010). Both documents focus on an increased impact of EU development policy.

Together with a sister communication on the future of EU budget support European Commission (2011b), the agenda for change has been said to conceptually underpin future EU spending on development. The joint communication of the Commission and the HRFASP, *Global Europe*, outlines the principles governing financing of EU external action. While human rights promotion is mentioned on occasion, the communication hinges on the notions of protecting European interests and promoting European values (compare the 2010 Green paper, which equally refers to European values and interests) (European Commission 2010: 4).

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Human rights approaches to development within the EU: Assumptions of change

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The future EU budget, i.e. the Multiannual Financial Framework 2014-2020 (MFF), that is currently under negotiation, will be decisive for future EU development policy. The overall amount proposed for these seven years is approximately €1,000 billion, or 1 per cent of EU GNI. The amount proposed for external action is slightly less than €100,000 million, with €23,000 million for the Development Cooperation Instrument (DCI), €34,000 million for the European Development Fund (EDF),¹ and €1,600 million for the European Instrument for Democracy and Human Rights (EIDHR).

In June 2012, the Council of the European Union adopted the *EU Strategic Framework and Action Plan on Human Rights and Democracy* (Council of the European Union 2012). Responsibility for the implementation of the action plan is attributed to the High Representative, as well as the Commission, the Council and Member States. In contrast with the Commission documents, in the strategic framework a human rights based approach is explicitly mentioned for the area of development cooperation. The objective will be 'to ensure that the EU strengthens its efforts to assist partner countries in implementing their international human rights obligations.' (p. 2). In the action plan, 'working towards a rights based approach in development cooperation' is listed as one of 36 outcomes.

Opposing tendencies can be identified in the above-mentioned policy documents. As far as Commission documents are concerned, the following conclusions can be drawn.

First of all, while human rights are referenced, there is no explicit nor implicit acceptance of human rights approaches to development. Development assistance is said to be a matter of 'solidarity, of commitment and of mutual interest' (European Commission 2010: 3), not of (human rights) obligations. Neither is there a reference to the long-standing commitment of the EU to reinforce the international human rights framework and its application. The European interest is spelt out in terms of climate change, addresses bad governance that provides fertile ground for terrorism and criminality, migration management and integration in the world economy (European Commission 2010: 4).

Human rights do not seem to be considered as part and parcel of development, nor as a goal of

development. At times, human rights are presented as part of the diplomatic and political realm, distinct from the realm of development cooperation (EC & HRFASP 2011a: 7). They seem to be limited to some civil and political rights, at the exclusion of socio-economic rights (European Commission 2011a: 6).

When human rights are mentioned, they do not seem to be considered as principles underlying a specific approach to development (such as participation, accountability, non-discrimination, empowerment). Nor are they associated with human development. For example, in the Global Europe Communication, a greater focus on human rights, democracy and good governance is announced, but the way this will be done is by taking 'greater account of human rights, democracy and good governance when it comes to allocating external assistance to partner countries', i.e. conditionality (EC & HRFASP 2011a: 6). Similarly, in the Budget Support Communication, human rights are approached in terms of negative conditionality, i.e. the reduction or suspension of budget support in response to a deteriorating 'commitment to fundamental values' (European Commission 2011b: 4). The conditionality approach to human rights in development is probably best illustrated in the re-coining of EU general budget support as 'Good Governance and Development Contracts' (European Commission 2011b: 4): human rights are seen as part of a broader good governance conditionality, which has instrumental value for development (European Commission 2011a: 4-5).

Moreover, there is a worrying tendency in the EU documents under discussion here to omit references to international human rights standards and norms. The reference tends to be rather to EU values (EC & HRFASP 2011a; European Commission 2011a: 3).

The June 2012 Council's strategic framework and action plan clearly departs from those approaches: it introduces explicitly a human rights-based approach in the area of development cooperation; there are explicit references to the universality of human rights and the UN monitoring systems; efforts to promote economic, social and cultural rights will be intensified; and there is much less of a conditionality approach. It remains to be seen which strand will prevail in practice.

Human rights approaches to development within the EU: Assumptions of change

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Policy recommendations:

Alignment of Commission development cooperation policies with the EU Strategic Framework and Action Plan on Human Rights and Democracy is required, so that:

- a. an integrated understanding and approach of human rights is taken, whereby equal attention is paid to civil, cultural, economic, political and social rights;
- b. human rights are referenced as internationally agreed upon universal standards, not (just) European values; by referring to European values, there is a risk that the human rights agenda is perceived as imposed;
- c. human rights approaches to development guide both the development process and outcomes; they are about understanding development as human development, and about participation, accountability, non-discrimination, empowerment in the process to development;
- d. a human rights approach to development is not limited to conditionality and negative sanctions; it is also and primarily about assisting countries in their efforts to realise internationally agreed human rights norms to which they have committed.

Assumptions of change in the area of development within the EU

On the basis of the documents under review, little if anything can be said on the EU's understanding of organisational or inward looking change.

As to outward looking change, there seems to be an assumption that providing much or more development assistance makes 'a real difference on the ground to millions of people around the world' (European Commission 2010: 3). However, it is also acknowledged that aid alone will never bring development; growth is the other trigger of change, which is moreover believed to have a 'multiplier effect', i.e. it 'produces a much greater effect in

terms of poverty reduction than incremental increases in ODA' (European Commission 2010: 4 and 11). Both are also believed to be connected, as development aid is seen as a catalyst of growth (European Commission 2010: 11). The most nuanced understanding of change in the sense of impact of development cooperation can be found in the Commission's 2010 Green Paper, which reads:

The impact of cooperation is influenced by a whole range of factors that shape the broader framework of EU development policy, including the global economic context, partner countries' own policies, the coherence of donors' policies (on trade, agriculture, migration, humanitarian policies, climate mitigation, etc.), and the policy dialogue that precedes aid programming decisions. In certain countries, the external dimension of EU policies has a greater impact on development than aid (European Commission 2010: 6).

In the Strategic Framework and Action Plan, outcome 31 suggests 'impact on the ground through tailor-made approaches' (Council of the European Union 2012).

While change is very prominently present in all the recent policy documents, the underlying assumptions about who and what causes change are seldom clarified. Exceptionally, an actor of change is identified: for example, in the Global Europe Communication, civil societies are seen 'as key actors for positive change in support of human rights and democracy' (EC & HRFASP 2011a: 10). This seems to be in line with a more general recognition that 'long-term progress can only be driven by internal forces', albeit that such recognition is mainly meant to justify a political dialogue and strict conditionality (European Commission 2011a: 5). In the 2011 communication on budget support, budget support is considered 'a vector of change' (European Commission 2011b: 3). In the same communication, those sectors in which 'the drivers of change are stronger and aiming at addressing the basic needs of populations' are said to be singled out for EU sector budget support (European Commission 2011b: 4).

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Human rights approaches to development within the EU: Assumptions of change

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Together with political and macroeconomic stability, good governance, security, a good business environment and other factors, respect of human rights is considered important as a factor that influences a growth friendly environment (European Commission 2010: 11).

Policy recommendations:

- a. on the EU's capacity to change: more attention needs to be paid to inward looking change, i.e. how can/should EU institutions themselves change in order to be able to introduce a human rights approach to development?
- b. on how to trigger and support change in countries: the underlying assumptions about developmental change in recent EU documents need to be clarified, so as to be able to assess whether these assumptions can be substantiated and how development cooperation and other instruments the EU has at its disposal can best foster and support change in developing countries.

Towards inter-organisational learning?

We now turn to a brief examination as to whether organisational change within the EU and/or the UN could take place through inter-organisational learning, and how the EU could be involved in or contribute to UN Human-Rights Based Delivery as One.

Both the EU and the UN face the challenge that HRBA/human rights mainstreaming is de facto still quite marginal in the overall development agenda and policies of their organization. While it is undoubtedly true that the UN has made a larger effort to integrate HRBA in its development work, consecutive assessments have pointed out the difficulties within UN Development Group (UNDG) for HRBA to take root. Provided that there is a shared view on the importance of human rights in development policy and practice among some of their organisational components, these may have an interest in mutually reinforcing each other on this point. We will first look briefly into actual interaction and reinforcement between both, before exploring

avenues for the future. Much will of course depend on the way EU development cooperation will be oriented in the near future

Mutual reinforcement and inter-organisational learning

It seems safe to say that at present, no explicit policies have been developed to encourage concerted UN and EU Human-Rights Based Delivery as One at the national level. While the UNDAFs (UN Development Assistance Framework) and the Results Matrix were intended to take into account also the activities of other donors, and even to promote harmonisation, there was no evidence up to 2006 that they have been effective on that count (Longhurst 2006: 2). The search for the UN's strategic role and comparative advantage at country level may as well facilitate as it may impede cooperation with the EU and its member states. Of course, one may question that a concerted EU and UN Delivering as One is desirable or feasible, in particular if one accepts that the EU Delegations represent also in the field of development cooperation EU interests as their legitimate or de facto goal.

Moreover, the energy and attention that is needed within the UN to encourage inter-agency cooperation may well mean that it would be asking simply too much at this stage to also pay much more attention to joint action with other actors like the EU.

The EU may learn from UN experience that there is no fast track for organisational change, and understand better the importance of leadership and true believers to make organisational change happen. Moreover, as the ultimate goal of organisational change is better development results, insights in the multidimensional and complex nature of social change should not be neglected.

Potential EU contribution to UN reforms

Assuming it is desirable that UN and EU country presences engage in a delivery as one exercise, options are open for the EU to encourage or contribute to UN Human-Rights Based Delivery as One.

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Human rights approaches to development within the EU: Assumptions of change

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Minimally, the EU could contribute financially to ongoing UN reforms, without engaging in the substance, e.g. by contributing to the UN Country Coordination Fund, to independent evaluations of the reforms, or to the UNDG-Human Rights Mechanism, similar to what individual member states already do.² The EU may want to engage itself more strongly, and act as a driver for change, e.g. by stimulating UN agencies to approach donors jointly for funds at the programme level, in particular with regard to human rights,³ by providing opportunities for the UN to mainstream human rights in the context of development agreements/neighbourhood policies,⁴ or by mobilizing its field presence, through EU Delegations, to foster UN rights-based delivery as one.

There are several preconditions to be met for such a role for the EU to materialize. First of all, a strong EU commitment to HRBA is needed. Secondly, political dynamics between the EU member states and the EU institutions properly speaking do not augur well. As development cooperation is still within the sovereignty of the member states rather than an EU competence, an EU role in UN development reform may be perceived as a threat to the sovereignty of the member states in the field of development cooperation. Thirdly, EU subservience to the UN agenda of reform would most likely be considered as a threat to EU visibility on the ground.

For the near future, a significant EU contribution other than financially to the UN reform agenda in the field of human rights and development seems most unlikely. At best, the EU may take seriously its own delivery as one agenda, by seeking complementarity and reinforcement between its own common policy on development cooperation and that of its member states (art. 4 Treaty on the Functioning of the European Union), as well as policy coherence for development. As a minimum, it should thereby draw on international human rights norms.

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Notes:

1. EDF is outside the EU budget, and covers, inter alia, the African, Caribbean and Pacific Countries.
2. There is already a track record of funding the OHCHR and its field activities, see http://ec.europa.eu/europeaid/what/human-rights/documents/fact_sheet_cooperation_en.pdf. Similarly, the EU supports many of the UN development agencies, programmes and funds, see http://ec.europa.eu/europeaid/who/partners/international-organisations/documents/un_2000_2010_en_march_2011.pdf.
3. Individual UN agencies still approach donors individually for funds at programme level, see Richard Longhurst, Review of the Role and Quality of the United Nations Development Frameworks (UNDAs), London, Overseas Development Institute, May 2006, 20.
4. Compare how the EU integration agenda in Kosovo provides for opportunities for OHCHR to mainstream human rights issues, see Advisory services and technical cooperation in the field of human rights. Report of the Secretary-General, para. 36, UN Doc. A/HRC/16/66 of 8 February 2011.

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